

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DAVID LEVOYD REED,

Plaintiff,

v.

JAMES DZURENDA, *et al.*,

Defendants.

Case No. 2:19-cv-00172-APG-NJK

**ORDER GRANTING
DEFENDANT'S MOTION TO EXTEND
DISPOSITIVE MOTIONS DEADLINES
ESTABLISHED BY COURT ORDER
(ECF NO. 65)
(FOURTH REQUEST)¹**

Defendant, Ted Nielson, by and through counsel, Aaron D. Ford, Attorney General of the State of Nevada, and Chris Davis, Deputy Attorney General, hereby moves, pursuant to Fed. R. Civ. P. 6(b) and 16(b)(4) and Local Rules IA 6-1 and LR 26-3 to extend the dispositive motions deadline established by Court Order (ECF No. 65) by thirty (30) days from **Monday, January 10, 2022, to Wednesday, February 9, 2021**. This motion is brought based on the following Points and Authorities, the good cause set forth in the Declaration of Chris Davis Esq., and the pleadings and papers filed in this matter.

¹ Plaintiff has filed two previous motions to extend scheduling order, namely ECF Nos. 54 and 56. EFC No. 65 was the first request to extend dispositive motions deadlines, and this is the second request.

DECLARATION OF CHRIS DAVIS, ESQ.

I, Chris Davis, declare under penalty of perjury that the following is true and correct of my own personal knowledge and if called to testify in this matter would testify as follows:

1. I am a Deputy Attorney assigned to represent the Defendant Ted Nielson in this matter.

2. I was hired by the Office of Attorney General on September 13, 2021, and began working in the post-conviction habeas unit. Because of a shortage of attorneys representing the Nevada Department of Corrections (NDOC). I volunteered to transfer to the NDOC unit, and was scheduled to begin on November 29, 2021.

3. On November 19, 2021, however, my father passed away due to Covid related illness. As a result, I was required to take personal leave in order to manage my father's funeral arrangements. That personal leave required me to delay my transfer until December 6, 2021, while still working for the Attorney General's post-conviction habeas unit. I was effectively handling a double case load until December 23, 2021, when I completed my last assignment for the post-conviction unit for the Office of the Attorney General.

4. In December 2021, Deputy Attorney General Frank DiMaggio, the attorney assigned to this matter announced his resignation, and on December 28, 2021, this matter was assigned to me. In addition to my significant case load, I immediately began reviewing the file in this matter and discovered that the dispositive motion deadline was January 10, 2022. While DAG DiMaggio had begun the process of drafting a dispositive motion in this case, to meet the requirements of Fed. R. Civ. P. 11, I was required to duplicate his review of the record to determine proper grounds for filing a dispositive motion.

5. While I diligently reviewed the record and researched the applicable law, my ability to timely complete a dispositive motion was hindered by the New Year Holiday, my pre-planned time for my wedding anniversary (January 3rd), and my substantial case load I had taken on when transferring to the NDOC unit. Additionally, shortly after the New Year, my son, who has a substance abuse problem, relapsed. The overtime that I would have spent drafting a motion for summary judgment was spent finding an out-patient rehabilitation center that would accept my son.

6. Based on the forgoing, good cause is present to grant an extension of thirty (30) days. Counsel for Defendant has diligently attempted to timely complete the dispositive motion, working long

hours, but has simply been unable to do so due to my father's passing causing a double workload, the short time between my assignment to this case and the dispositive motion deadline, the holidays, and my personal family emergencies.

Dated this 10th day of January, 2022.

AARON D. FORD
Attorney General

By: /s/ Chris Davis
Chris Davis

POINTS AND AUTHORITY

Pursuant to Fed. R. Civ. P. 6(b), the "court may, for good cause, extend the time . . . with or without motion or notice . . . if a request is made, before the original time or its extension expires." Defendant seeks a thirty (30) day extension to the dispositive motion deadline which is set for today, January 10, 2022. Good cause is present to grant an extension of thirty (30) days to file Defendant's motion for summary judgment. Counsel for Defendant has diligently attempted to timely complete the dispositive motion, working long hours, but has simply been unable to do so due to his father's passing causing a double workload, the short time between his assignment to the case and the dispositive motion deadline, the holidays, and his personal family emergencies. Accordingly, Defendant respectfully requests that the extension be granted for good cause. *See Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1260, (9th Cir. 2010) (holding that the "district court abused its discretion in denying party's timely motion" to extend time because the party "demonstrated the 'good cause' required by Rule 6, and because there was no reason to believe that [the party] was acting in bad faith or was misrepresenting his reasons for asking for the extension").

CONCLUSION

For the forgoing reasons, and for good cause appearing, the Defendant requests an extension as follows:

1. The time for the parties to file any dispositive motion be extended by thirty (30) days from Monday, January 10, 2022, to Wednesday, February 9, 2022.

Dated this 10th day of January, 2022.

By: /s/ Chris Davis
Chris Davis

ORDER

Nancy J. Koppe
United States Magistrate Judge

Dated: January 11, 2022